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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,978	12/28/2001	Jeffrey B. Hundley	1381-011312	1223

7590 05/14/2003

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EXAMINER

FITZGERALD, JOHN P

ART UNIT

PAPER NUMBER

3637

DATE MAILED: 05/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

draw to non-elected species

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32-36

40-46

50, 51, 55

Office Action Summary

Application No.

10/034,978

Applicant(s)

HUNDLEY, JEFFREY B. *ES*

Examiner

John P Fitzgerald

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 1-14, 19-21 and 23-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-18 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-14, 19-21 and 23-31 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 1-14 and 23-31 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7. Claims 19-21 are also withdrawn from further consideration as being drawn to the **non-elected** species of Figures 6; Figures 7 and 9; Figure 10 and Figure 11.
2. Applicant's election with traverse of Group II; species Figs. 1 and 5, drawn to a structural panel in Paper No. 7 is acknowledged. The traversal is on the ground(s) that undue economic hardship upon the applicant and it would not be burdensome for the Examiner to search the non-elected inventions/species. This is not found persuasive because the non-elected inventions/species are combination-subcombination related, or method claims. The search required for all variations of the claimed inventions, including species thereof, is in fact burdensome to the Examiner. In addition, applicant's attention is directed to the statute 35 U.S.C. 121 which requires the instant application to be restricted to **one** invention..

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 15, 17 and 22 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. Claim 15 recites the limitation “a pair” in lines 7 and 9. It is unclear if the claim is referring to the “at least one pair of brackets,” or is reciting a second and/or third pair of brackets associated with the “at least one pair of brackets.” Further regarding claim 15, line 11 singularly states “the bracket.” It is unclear if the limitations are specific to “one” of “the pair” of brackets, and if so, which bracket is being further limited. Claim 17 recites the limitation “the top” in line 2. There is insufficient antecedent basis for this limitation in the claim. Additionally, it is unclear from the specification and/or Figures if the “first end” is in fact oppositely located from the “second end,” or is, in fact, mutually orthogonal to the “second end.” Further regarding the “first end” and “second end” limitations, the claim indefinitely recites “outer surfaces,” and subsequently recites “each outer surface” “may be” projected to extend to intersect with “the other outer surface” to form a base corner. It is unclear which outer surface is being further limited, and the fact that the outer surfaces “may be” projected to extend to intersect with “the other outer surface” is not a definite limitation. Furthermore, it appears from the Figures, specifically Figure 4, that the “first penetration line” does not “extend” from the base corner, but in fact extends from an intermediate location on the “first end.”

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

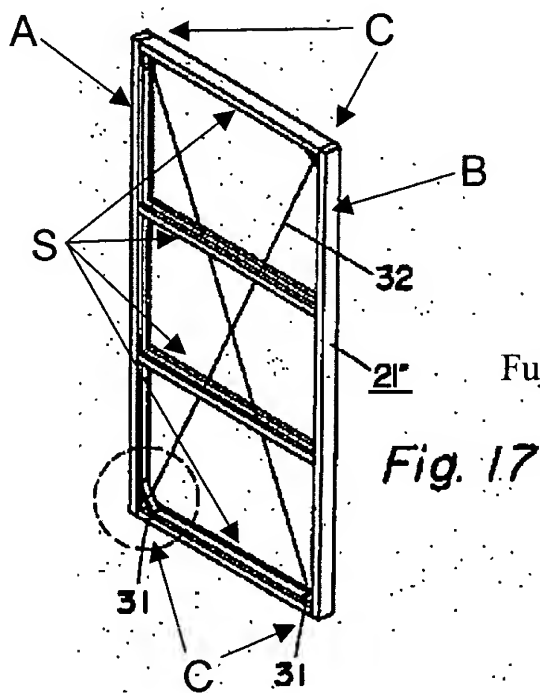
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

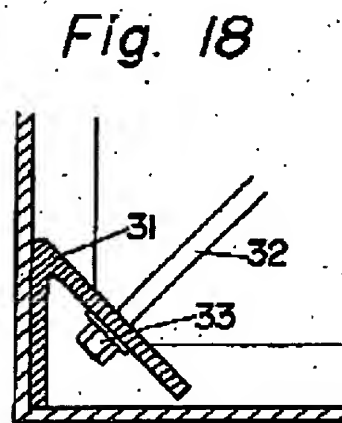
7. Claims 15-18 are rejected under 35 U.S.C. § 102(b) as being anticipated by Fujishima et al. Fujishima et al. disclose a structural panel (21') (Fig. 17) having a first track (A); a second

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track (B); a plurality of studs (S) therebetween connected to and securing the first track and second track to define four inner corners (C); at least one pair of brackets (31) (Fig. 18) wherein each bracket of the at least one pair of brackets is secured to one of two diametrically opposed inner corners; and a cross member (32) secured at a first end to one of the at least one pair of brackets and at a second end to the other of the at least one pair of brackets; wherein there are two pairs of brackets; wherein each bracket is welded to one of either the first or second track and to the adjacent outermost stud (Fujishima et al. col. 5, line 36); wherein each cross member has threaded ends which extend through bores in the brackets and are secured to the brackets with mating nuts (33) such that the tension in the cross member may be adjusted by tightening or loosening the nuts against the brackets (Fujishima et al. col. 5, lines 34-35). Fujishima et al. further disclose that the brackets maybe joined to additional structural panels or slabs by bolting them together (Fujishima et al. col. 3, lines 65-70 and col. 5, lines 36-39).



Fujishima et al.



Claim Rejections - 35 USC § 103

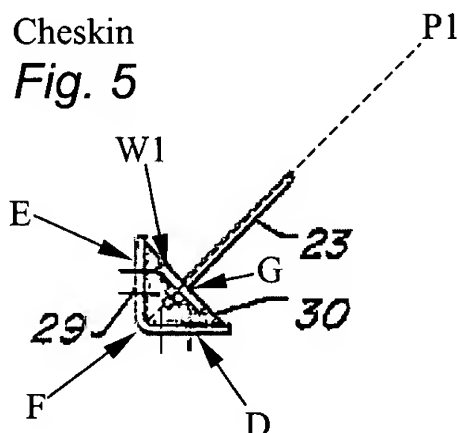
8. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

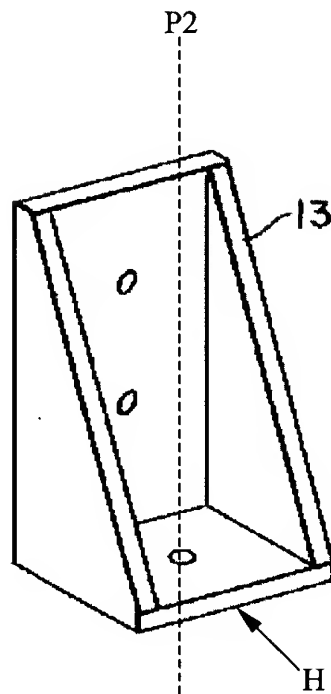
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. As best understood, claim 22 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Fujishima et al. as applied to claim 15 under 35 U.S.C. § 102(b) above, and in further view of Cheskin and Delight. Fujishima et al. disclose a structural panel having all of the elements stated previously. Fujishima et al. further disclose that each bracket is comprised of a polygonal body shape having a first side and a second side defining a thickness; a first end adjacent to a second wherein the first end and second end form a corner. Fujishima et al. do not expressly disclose a bracket wherein the first end and the second end each have mutually perpendicular outer surfaces and each outer surface extends or may be projected to extend to intersect with the other outer surface to form a base corner; wherein an imaginary first penetration line extends from the base corner away from both the first and second end and wherein the first penetration line intersects and passes through the cavity wall opposite the base corner; wherein a first passageway extends about the first penetration line through the cavity wall; wherein an imaginary second penetration line extends from and in a direction perpendicular to the outer surface of the first end; and wherein a second passage way extends about the second penetration line through the cavity wall of the first end. Cheskin teaches a structural panel (Fig. 1) having tension members (23, 24) wherein a bracket (29) (Fig. 5) having a polygonal body having a first

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end (D) adjacent to a second end (E) wherein the first end and second end each have mutually perpendicular outer surfaces and each outer surface extends or may be projected to extend to intersect with the other outer surface to form a base corner (F); wherein an imaginary first penetration line (P1) extends from the base corner away from both the first and second end and wherein the first penetration line intersects and passes through the cavity wall (W1) opposite the base corner; and wherein a first passageway (G) extends about the first penetration line through the cavity wall. Delight teaches a structural panel (Fig. 1) having tension members (14); a polygonal body shaped bracket (13) (Fig. 3) wherein an imaginary penetration line (P2) extends from an in a direction perpendicular to the outer surface of a first end (H); and wherein a passageway extends about the penetration line through the cavity wall of the first end. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the brackets with all of their associated elements, as taught by Cheskin and Delight, modifying the polygonal bracket disclosed by Fujishima et al., thus providing a shallow, economical lightweight construction which is easily assembled and erected (Cheskin: col. 1, lines 14-15), as well as providing a system in which brackets can be adjusted relative to the foundation (Delight: col. 1, lines 62-68).



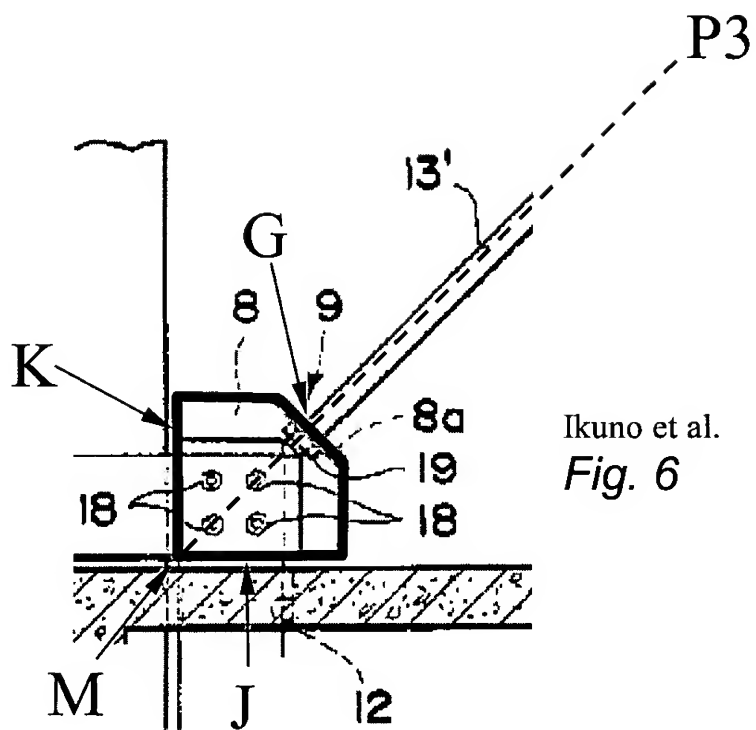


Delight
Fig. 3

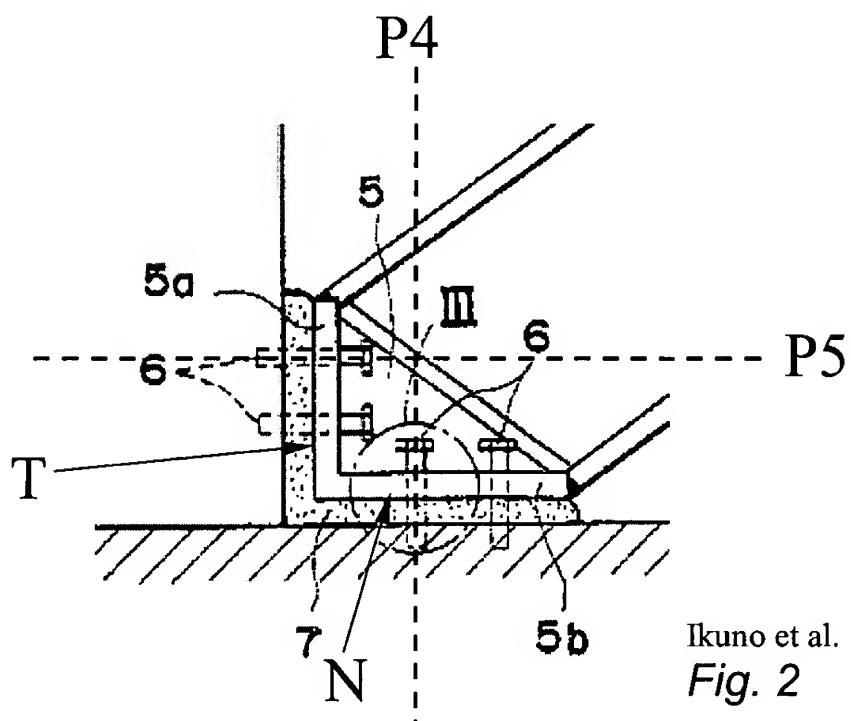
10. As best understood, claim 22 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Fujishima et al. as applied to claim 15 under 35 U.S.C. § 102(b) above, and in further view of Ikuno et al. Fujishima et al. disclose a structural panel having all of the elements stated previously. Fujishima et al. further disclose that each bracket is comprised of a polygonal body shape having a first side and a second side defining a thickness; a first end adjacent to a second wherein the first end and second end form a corner. Fujishima et al. do not expressly disclose a bracket wherein the first end and the second end each have mutually perpendicular outer surfaces and each outer surface extends or may be projected to extend to intersect with the other outer surface to form a base corner; wherein an imaginary first penetration line extends from the base corner away from both the first and second end and wherein the first penetration line intersects and passes through the cavity wall opposite the base corner; wherein a first passageway extends about the first penetration line through the cavity wall; wherein an imaginary second penetration

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line extends from and in a direction perpendicular to the outer surface of the first end; and wherein a second passage way extends about the second penetration line through the cavity wall of the first end. Ikuno et al. teach a structural cross-bracing system (Fig. 4) having cross-members (13, 13') attached to polygonal brackets (Figs. 5-7) located at opposite corners of the system; the bracket having a first end (J) adjacent to a second end (K) wherein the first end and second end each have mutually perpendicular outer surfaces and each outer surface extends or may be projected to extend to intersect with the other outer surface to form a base corner (M); wherein an imaginary first penetration line (P3) extends from the base corner away from both the first and second end and wherein the first penetration line intersects and passes through the cavity wall (8a) opposite the base corner; and wherein a first passageway (G) extends about the first penetration line through the cavity wall. Ikuno et al. further teach a further embodiment of the bracket (Fig. 2) having penetration lines (P4, P5) extending from and in a direction perpendicular to the outer surfaces of a first end (N) and a second end (T) and extending through the cavity wall of the first and second ends, respectively, for attaching the bracket through passageways formed about the penetration lines to secure the bracket to the structure. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the polygonal brackets and all of their attributes, as taught by Ikuno et al., modifying the polygonal brackets disclosed by Fujishima et al., thus providing an earthquake-resistant reinforcement structural panel (Ikuno et al.: col. 1, lines 8-12).



Ikuno et al.
Fig. 6



Ikuno et al.
Fig. 2

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Riley teaches a structural panel having brackets, cross-members attached to the brackets and a plurality of studs; Shahnazarian teaches a bracket having first and second ends perpendicular to one another and passage ways extending therethrough along imaginary penetration lines; SU 804798 to Kmet teaches a corner bracket for stabilizing frames within buildings having first and second sides perpendicular to each other and curved connection portions; EP 79314 to Vocca teaches a polygonal bracket for attaching structural members to one another; and GB 2135417 to Bliquy teaches a polygonal bracket for connecting structural members to one another.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Fitzgerald whose telephone number is (703) 305-4851. The examiner can normally be reached on Monday-Friday from 7:00 AM to 3:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai, can be reached on (703) 308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9302 before final action, and (703) 872-9327 after final action. Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1113.



JF
05/06/2003

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